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3                   UNITED STATES DISTRICT COURT  
4                   WESTERN DISTRICT OF WASHINGTON  
5                   AT TACOMA

6                   GREGORY W. CHAPMAN,

7                   Petitioner,

v.

8                   JEFFREY UTTECHT,

9                   Respondent.

NO. C10-5418 RJB/KLS

ORDER GRANTING MOTIONS TO  
LIFT STAY AND TO AMEND  
HABEAS PETITION

10                  Before the Court are Petitioner's Motion to Lift Stay (ECF No. 21) and Motion to  
11 Amend Habeas Petition (ECF No. 22). Petitioner has submitted his proposed amended  
12 petition. ECF No. 22-1. Respondent does not oppose either motion.

13                  DISCUSSION

14                  Mr. Chapman filed a habeas corpus petition in 2010. ECF No. 5. After filing the  
15 petition, Mr. Chapman moved to stay the federal petition pending the resolution of pending  
16 state court proceedings. ECF No. 12. The Court granted the motion. ECF No. 17. Having  
17 completed his state court proceedings, Mr. Chapman now seeks to lift the stay. He also moves  
18 to amend his habeas petition. ECF Nos. 21 and 22.

19                  Respondent confirms that a review of the state court dockets shows the state court  
20 proceedings have concluded. ECF No. 24, Exhibit A, Dockets for State v. Chapman, Court of  
21 Appeals Cause No. 40708-6-II and Supreme Court Cause No. 87580-4; Exhibit B, Dockets for  
22 In re Chapman, Court of Appeals Cause No. 43184-0-II, and Supreme Court Cause No. 87579-  
23

1       1. Respondent agrees that it is proper for the Court to lift the stay of the federal petition. ECF  
2       No. 23.

3                  The decision to grant a motion to amend is within the discretion of the district court,  
4       and leave to amend is generally freely given. *See Foman v. Davis*, 371 U.S. 178, 182 (1962);  
5       *Ruffolo v. Oppenheimer & Co.*, 987 F.2d 129, 131 (2nd Cir. 1993); *Smith v. Finance Center*,  
6       555 F.2d 234 (9th Cir. 1977). Respondent does not oppose the motion to file the proposed  
7       amended petition. ECF No. 23.

9                  Accordingly, it is **ORDERED**:

10                 (1)      Petitioner's motion to lift stay (ECF No. 21) and motion to amend (ECF No. 22)  
11       are **GRANTED**. The **stay is lifted** and the amended petition (ECF No. 22-1) shall be filed.

12                 (2)      Respondent shall file his response to the amended petition within forty-five (45)  
13       days of the date of this Order.

14                 (3)      The Clerk shall send a copy of this Order to Petitioner and counsel for  
15       Respondent.

16                  **DATED** this 29<sup>th</sup> day of January, 2013.

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Karen L. Strombom  
United States Magistrate Judge